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# Annual Report Fiscal Year 1987

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## Massachusetts Cable Television Commission

Michael S. Dukakis  
Governor

**The Commonwealth of Massachusetts**

Paula W. Gold  
Secretary

**Executive Office of Consumer Affairs  
and Business Regulation**

Rosalind A. Niles  
Commissioner

**Community Antenna Television Commission**

**November 4, 1987**



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THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION  
COMMUNITY ANTENNA TELEVISION COMMISSION

LEVERETT SALTONSTALL BUILDING  
100 CAMBRIDGE STREET, BOSTON 02202

ROSALIND A. NILES  
Commissioner

(617) 727-6925

November 4, 1987

The Honorable Michael S. Dukakis, Governor  
The Honorable William M. Bulger, President of the Senate  
The Honorable George Keverian, Speaker of the House of Representatives  
The Honorable Paula W. Gold, Secretary of Consumer Affairs  
and Business Regulation

I am pleased to submit the Annual Report of the Massachusetts Community Antenna Television Commission for Fiscal Year 1987.


I sincerely appreciate the support for this agency provided by the Governor and the Executive Branch. I am also grateful for the assistance provided by the Legislature in promoting the Commission's efforts to better serve municipalities across the Commonwealth.

I look forward to continuing to work with the Legislature to ensure that high quality, affordable cable television service is available to all Massachusetts citizens.

Respectfully yours,

A handwritten signature in blue ink, appearing to read "R. Niles", written over a horizontal line.

Rosalind A. Niles  
Commissioner



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# MASSACHUSETTS COMMUNITY ANTENNA TELEVISION COMMISSION

Annual Report  
November 4, 1987

## I. Background

In 1971, the Massachusetts Community Antenna Television Commission was established by the state legislature. The purpose of the legislation was "to authorize . . . the installation of community antenna television systems in cities and towns of the commonwealth and to provide for the regulation thereof by such cities and towns and the commonwealth . . . ." Under the oversight of the Commission, cable television has become available to most of the communities and residents in Massachusetts. From a technology used mainly to deliver off-the-air broadcast signals to rural and mountainous areas, the medium has developed to an industry rivalling the broadcast industry itself. Today, over 1.2 million Massachusetts households rely on cable television for delivery of information, entertainment, and local affairs programming.

The Massachusetts Cable Television Commission has worked in this time to facilitate the licensing of cable systems and to oversee the interests of both cable operators and cable subscribers. It has established regulations governing the award, amendment, transfer and renewal of cable licenses within the state, and has promulgated other consumer protection regulations to benefit cable subscribers. The Commission itself has evolved from a seven member panel to a single commissioner, and currently employs eight staff members, including an executive director, general counsel and two attorneys, municipal assistance coordinator, administrative manager and office support staff. The Commission's activities as a regulatory agency center around five areas: legislation, rulemaking, adjudication, information-sharing, and consumer complaint assistance.

Under Section 2 of the cable statute, Massachusetts General Laws Chapter 166A, the Massachusetts Community Antenna Television Commission is required "to annually prepare and submit to the governor and the general court, . . . a report of its activity and the condition of the cable television industry within the commonwealth during the preceding fiscal year . . . ." The Community Antenna Television Commission hereby submits this Annual Report in fulfillment of that requirement for Fiscal Year 1986 - 1987.

## II. Cable Television Industry Activity

### A. Licensing Activity

As mentioned above, one of the fundamental purposes of the Community Antenna Television Commission is to authorize the operation of cable television systems in the state. Cable companies may not provide cable service without first obtaining a license from the city or town. Licensing proceeds under regulations established by the Commission, but each municipality, or "issuing authority," may choose its own operator(s). Thus, licensing oversight consumes a substantial portion of Commission resources each year.

The cable television licensing activity in the Commonwealth reflects the change in licensing which is occurring nationwide as the industry matures. While the number of municipalities going through initial licensing has decreased in the past few years as most of the population centers in the state have obtained cable service, renewal and transfer of licenses has increased. For example, in contrast to the heavy initial licensing activity in the early years of this decade, when 50 - 60 communities were involved in some stage of the licensing process at any one time, in FY87, 22 communities were involved in initial licensing. Final licenses were granted in nine municipalities.

On the other hand, several of the licenses awarded in the early 1970s are now reaching the end of their initial fifteen year terms. In FY87, five communities negotiated renewal licenses. This number is expected to increase significantly in the future. Furthermore, because renewal negotiations usually begin 30 - 36 months prior to license expiration, and may continue throughout that period, many more communities are involved in renewal negotiations in any given year than the number actually signing renewal agreements.

Renewal is a critical time in the life of a cable license. Under the federal Cable Communications Policy Act of 1984, the areas open to regulation by municipalities are limited. Therefore, the opportunity to renegotiate license provisions which occurs at the expiration of the license term takes on added significance. Because the terms of licenses are long (typically fifteen years for an initial term and ten years for a renewal license), the community has an incentive to participate actively in the renewal process. Finally, because technology changes quite quickly in the cable field, and because the sophistication of technology may imply additional costs for the community, the community must analyze carefully its needs and interests and then tailor its requests to its individual circumstances.

In addition to a stronger focus on renewal licensing, there has developed a trend towards greater license transfer activity. This transfer activity can be traced to a number of sources: generally, the slowdown in initial licensing across the country has led to a stronger focus by the cable industry on consolidating and regionalizing holdings. Perhaps more important, market conditions in this period encouraged the sale of cable properties. In FY87, the market for media properties generally and cable properties in particular was very strong, leading many smaller, independent cable companies to sell their properties, other larger companies to consolidate and expand their cable holdings, and still others, to seek protection from undesired takeover attempts, in leveraged buyouts, and "friendly takeovers." In Massachusetts, this national trend translated into 23 applications for transfer in Fiscal Year 1987. A large increase in this number is anticipated for FY88.

Thus, both renewal and transfer activity in municipalities throughout the Commonwealth is increasing. In both situations, and particularly in the renewal situation, local issuing authorities are called upon to analyze sophisticated technical and financial proposals from cable companies which typically have far greater resources than the towns. While, by statute, the municipality has less of a review role during transfer than renewal, many cities and towns take the opportunity of a transfer hearing to raise unfulfilled commitments and other long-standing grievances with the cable company. For these reasons, the Commission expects that more of its resources will be devoted to counselling municipalities facing renewal and transfer on the legal issues involved and assisting in analyzing financial and service offerings of companies.

Overall, of the 351 issuing authorities in the state, 275 had issued cable licenses by the end of FY87, and an additional 11 were in the process of obtaining a cable license. With a few exceptions, the unlicensed municipalities in the state are rural, low-density areas. As cable properties become more valuable, the Commission expects that even these communities will be attractive markets for cable service, although licensing will probably proceed at a slower rate than in the past.

## **B. Cable Subscribers**

In the years prior to 1985, the state subscriber count reflected the strong surge in cable licensing and construction of populated areas. In both 1985 and 1986, however, the increase was more modest. (Figure 1.) In the years between 1980 and 1984, subscribership increased an average of 30 percent each year. In the past two years, the increase has been a more modest 10 and 13 percent respectively. At the end of 1986, 1,173,473 households were subscribing to cable service in the state, 130,535 subscribers more than in 1985.



Figure 1.

## MASSACHUSETTS CABLE SUBSCRIBERS

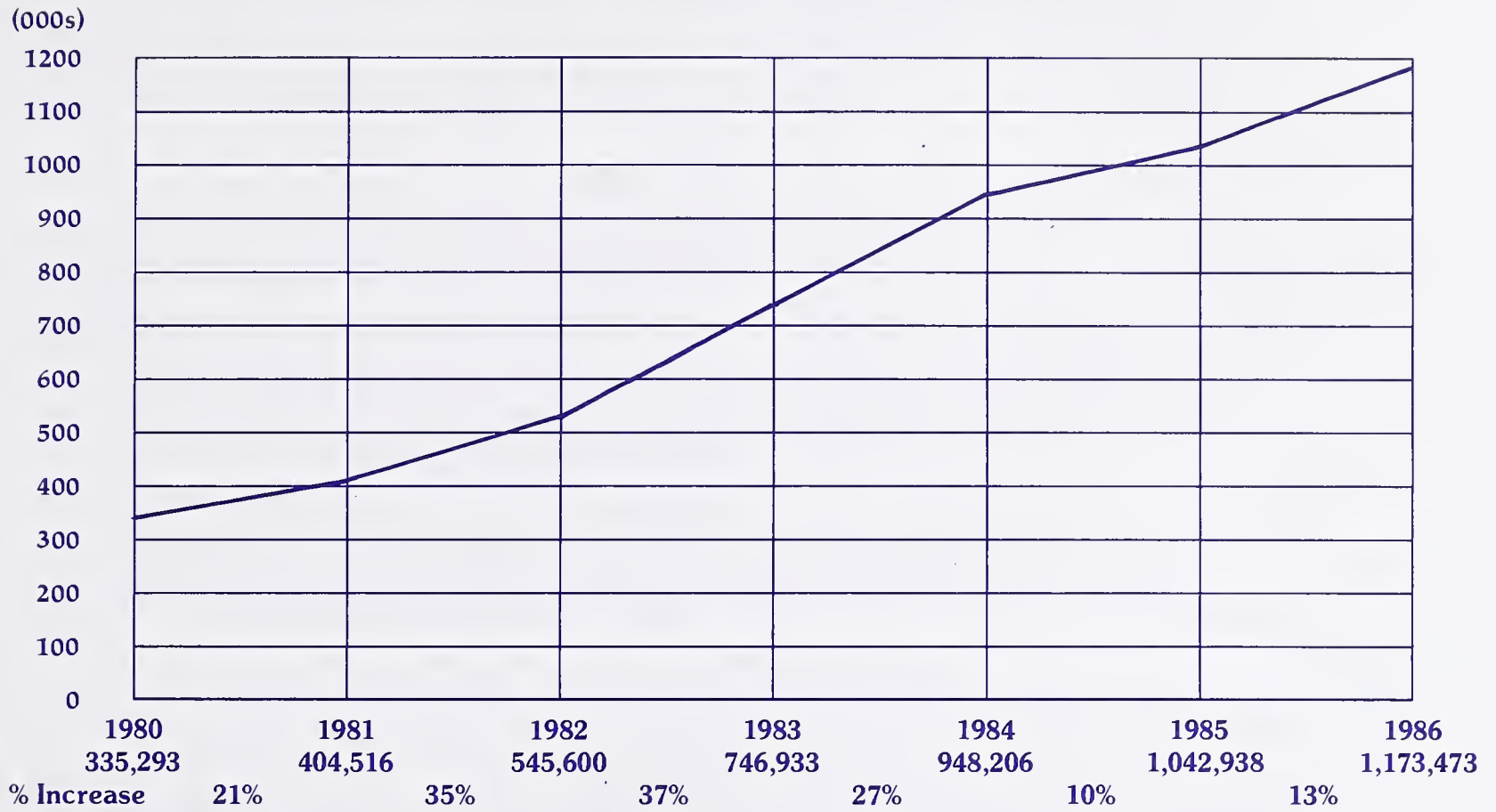
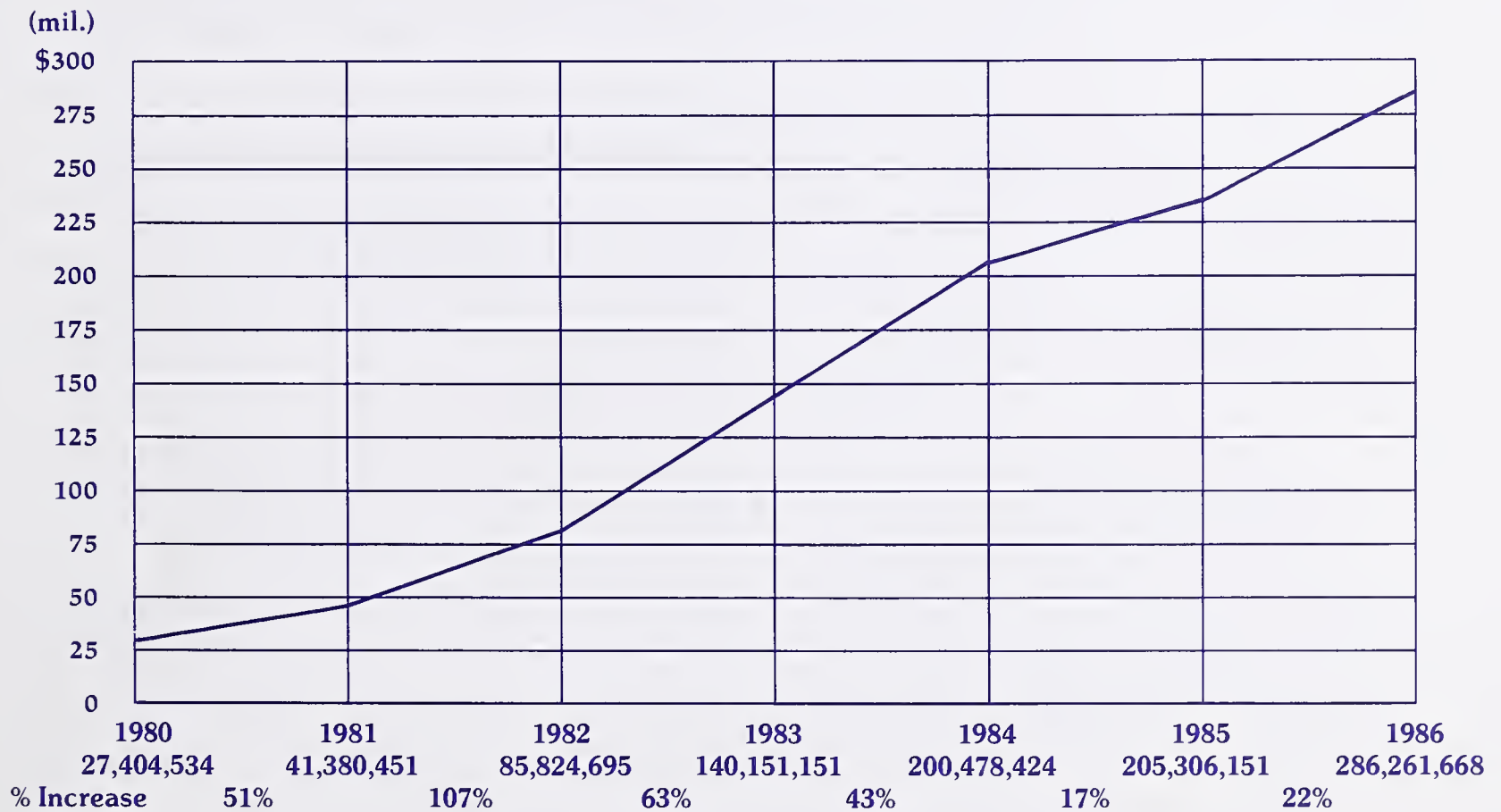


Figure 2.

## CABLE OPERATOR REVENUES



### **C. License Fees**

Massachusetts law requires that cable licensees serving over 250 subscribers pay a fixed license fee of \$1.30 per subscriber to be divided between the state and the municipality (80¢ to the state and 50¢ to the municipality). M.G.L. ch. 166A, § 9. Thus, in Massachusetts, the growth in revenues to the state from license fees has followed a pattern similar to the growth in subscribers. For calendar year 1986, the Commission collected on behalf of the state \$939,250 in fees from cable operators.

### **D. Cable Company Revenues**

Cable operators doing business in the state are required by statute to file statements of revenues. M.G.L. ch. 166A, § 8. Revenues received by the cable companies have followed the same general pattern of expansion as levels of subscribership, but at a much more dramatic rate. (Figure 2.) Thus, in the years from 1980 to 1984, cable company revenues increased an average of 66 percent each year, more than twice the rate of expansion of the subscriber base. In 1985 and 1986, the increases were 17 and 22 percent respectively, reflecting a slowdown similar to that witnessed in subscribership. However, overall, in the past seven years, cable company revenues have increased more than tenfold. For comparative purposes, subscribership in 1986 is three and a half times the number in 1980.

Gross revenues from cable operators in 1985 totalled \$235,306,151; in 1986 this figure reached \$286,261,688.

## **III. Cable Television Commission Activity**

### **A. Implementation of Municipal Assistance Program**

In FY86, the Cable Commission inaugurated a Municipal Assistance Program, and in FY87, the Program gained a Coordinator and an audience. The purpose of the Program is to share more systematically important legal and technical cable information with the state's 286 cable communities. Through several information-sharing initiatives, the Commission aims to heighten awareness of cable issues among municipal officials and consumers in order to promote more responsive service to cable subscribers across the state.

Among the initiatives undertaken in the Municipal Assistance Program are the following:

- implementation of an "early warning system" for communities approaching renewal of their cable licenses, including a package of materials explaining the renewal process under federal law, a personal call and visit by the Municipal Assistance Coordinator to any interested community, and ongoing assistance throughout the renewal process;
- dissemination of information about the impact of federal rate deregulation to communities previously regulated under state law, and later assistance in interpreting FCC regulations permitting waiver of deregulation;
- preparation of a Municipal Cable Contacts Directory, listing the names and addresses of cable advisory committee members and issuing authority contacts in over 250 communities;
- on-site visits by the Municipal Assistance Coordinator to approximately 45 communities to discuss cable-related topics of concern to the community; and
- establishment of contacts with the Massachusetts Municipal Association through presentations and seminars for the membership, and contributions to the MMA's guidebook for selectmen.



In addition to these efforts of the Municipal Assistance Program, the Commission sponsored other outreach initiatives designed to increase awareness of cable issues among municipal officials. Commission personnel participated in conferences sponsored by the City Solicitors and Town Counsel Association, the National Association of Telecommunications Officers and Advisors and the National Federation of Local Cable Programmers. The Commission also released its fourth issue of *Cablestate*, a newsletter discussing issues of concern to the cable industry, issuing authorities and subscribers throughout the state.

## **B. Consumer Assistance**

One of the Commission's prime functions is the handling of consumer complaints. In calendar year 1986, the Commission received almost double the number of complaints from the previous year. The Commission received 2394 complaints from cable subscribers across the state in 1986 compared to 1216 in 1985. The greatest portion of complaints this year, as in prior years, was in the billing, disconnection and service areas. In the wake of federal rate deregulation, the Commission also received a significant number of complaints from subscribers about rate increases and channel lineup changes.

## **C. Implementation of Billing and Termination of Service Regulations**

In October 1986, the Commission's Billing and Termination of Service regulations became effective. The regulations are designed to protect the interests of cable operators and subscribers by creating a uniform statewide system for billing and termination of service. The regulations are the first broad-based set of consumer protection policies for cable customers and focus primarily on ensuring that customers are given concise, specific information about the range of cable services available to them and the costs of these services.

In preparing for implementation of these regulations, Commission staff met with representatives of cable companies operating in the state to answer their specific concerns. The Commission also issued a Bulletin providing further clarification of the regulations and applying them to specific situations.

Operator and consumer response to the regulations was very good in the first year. Operators generally complied with Commission requirements, and subscribers were pleased to receive full notice of billing practices and rates and charges in advance of installation or change.

## **D. Massachusetts Community Television Contest**

The Commission conducted its third annual Community Television Contest. The purpose of the contest is to promote and reward producers of local programming across the state. Access and local origination producers submitted approximately 250 entries in twenty different categories, representing an increase in participants from the previous year. Judges reviewed the entries and chose winners in each category. A well-attended awards ceremony and reception for all participants was held in December 1986.

## **E. Commission Role as Mediator**

The Commission was called upon to assist several communities in the Commonwealth at critical times in their licensing histories. The Commission met with key legislators and representatives of the Town of Belmont as it sought to negotiate a lease with a cable operator which would give the Town some control over the cable facility. As a result of these meetings, the Town decided to renew the licensing process, in order to avoid any possibility of an appearance of impropriety. In the Towns of Lee, Lenox, Stockbridge and Great Barrington, the Commission monitored negotiations between the towns and their cable operator, which finally resulted in a successful license amendment, thereby ending five years of uncertainty

and turmoil. In the Town of Topsfield, the Commission issued a key waiver to allow the cable company to commence construction prior to the onset of the winter, thus enabling residents to obtain cable service sooner. Finally, in communities such as Amesbury, Carlisle, Townsend and several others, the Commission facilitated fruitful resolution of license negotiations.

#### **F. Compliance with Cable Law and Regulation**

In several important instances, the Commission acted to protect subscribers and to enforce the law. In August, 1986, the Commission determined that a cable system was about to commence operation without a license in the resort community of New Seabury in the Town of Mashpee on Cape Cod. The Commission issued a cease and desist order to Channel One, Inc., based upon its interpretation of the Cable Communications Policy Act of 1984. The Commission also addressed a Petition for Special Relief to the Federal Communications Commission, requesting verification of its interpretation of federal law.

The Commission also conducted investigations of policies and practices of the operators of cable systems in Townsend, Boxborough and Nantucket. In addition, the Commission notified several cable companies of their failure to comply with Commission security deposit regulations, and monitored the full compliance of these companies with the law.

#### **G. Access to Premises Legislation**

In 1985, the legislature passed an amendment to Chapter 166A which provides that a property owner may not prevent an occupant of a multiple dwelling unit from receiving cable television service. The United States Supreme Court has determined that this type of legislation, while permissible, constitutes a "taking" of property for which compensation must be provided. In Massachusetts, the statute, referred to as Section 22, calls for the Cable Television Commission to determine the amount of compensation. The statute also provides that a property owner is entitled to set "reasonable conditions" for entry on his or her property.

In several cases brought by property owners challenging the constitutionality of the statute, the Commission, through the Attorney General, defended the legitimacy of the law. However, in recognition of the potentially serious infringement on a property owner's rights, and in accord with the language of the statute, the Commission also promulgated emergency regulations defining conditions under which cable operators are required to operate in supplying cable to tenants of multiple dwelling units, condominium complexes and mobile home parks. The Commission's regulations also established a formula for computing just compensation for the taking of property.

#### **H. Adjudications, Rulemakings and Rate Proceedings**

As mentioned at the outset of this Annual Report, two of the main categories of Commission activity are adjudications and rulemakings. The Commission presided over nine adjudications in the fiscal year, including the final resolution of a license dispute in the Town of Bridgewater which had been in adjudication for two years. The cable company affected appealed the Commission's opinion to Superior Court. The Commission retains jurisdiction over a separate adjudication involving the same parties.

The Commission's rate setting activity has been limited by a state deregulation policy implemented in 1979. In FY87, the Commission conducted one ratemaking proceeding, issuing a final order.



## IV. Conclusion

The Massachusetts Cable Television Commission expects to continue its active monitoring of all aspects of licensing throughout the Commonwealth in FY88, with special concentration on the areas of renewal and transfer of licenses. It anticipates a greater role in assisting individuals in understanding federal law and regulation, as several key measures are implemented and issues litigated in the course of the year. The Commission expects also to maintain a high profile in municipal assistance, and in the protection of consumer interests, through rulemakings when appropriate, and through investigation and information-sharing. Finally, the Commission looks forward to the continued success of its municipal assistance program, which will make cable issues more accessible to citizens of the state. This Commission believes strongly that an informed citizenry is the best insurance that efficient, high-quality cable television service will be consistently available to subscribers throughout the Commonwealth.





